

02-28-02

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02/25/02

10542 U.S. PRO

**UTILITY PATENT APPLICATION TRANSMITTAL  
(Small Entity)***(Only for new nonprovisional applications under 37 CFR 1.53(b))*Docket No.  
1974.005

Total Pages in this Submission

**TO THE ASSISTANT COMMISSIONER FOR PATENTS****Box Patent Application  
Washington, D.C. 20231**

Transmitted herewith for filing under 35 U.S.C. 111(a) and 37 C.F.R. 1.53(b) is a new utility patent application for an invention entitled:

**AVILAMYCIN DERIVATIVES**

and invented by:

**WEITNAUER et al.**10542 U.S. PRO  
10/084846

02/25/02

If a **CONTINUATION APPLICATION**, check appropriate box and supply the requisite information:☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: \_\_\_\_\_

Which is a:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: \_\_\_\_\_

Which is a:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: \_\_\_\_\_

Enclosed are:

**Application Elements**

1. ☒ Filing fee as calculated and transmitted as described below
2. ☒ Specification having 53 pages and including the following:
  - a. ☒ Descriptive Title of the Invention
  - b. ☒ Cross References to Related Applications *(if applicable)*
  - c. ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
  - d. ☐ Reference to Microfiche Appendix *(if applicable)*
  - e. ☒ Background of the Invention
  - f. ☒ Brief Summary of the Invention
  - g. ☒ Brief Description of the Drawings *(if drawings filed)*
  - h. ☒ Detailed Description
  - i. ☒ Claim(s) as Classified Below
  - j. ☒ Abstract of the Disclosure

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**Application Elements (Continued)**

3. ☒ Drawing(s) *(when necessary as prescribed by 35 USC 113)*  
a. ☐ Formal      b. ☒ Informal      Number of Sheets 238
4. ☒ Oath or Declaration  
a. ☒ Newly executed *(original or copy)*      ☐ Unexecuted  
b. ☐ Copy from a prior application (37 CFR 1.63(d)) *(for continuation/divisional application only)*  
c. ☒ With Power of Attorney      ☐ Without Power of Attorney  
d. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s) named in the prior application,  
see 37 C.F.R. 1.63(d)(2) and 1.33(b).
5. ☐ Incorporation By Reference *(usable if Box 4b is checked)*  
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied  
under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby  
incorporated by reference therein.
6. ☐ Computer Program in Microfiche
7. ☒ Genetic Sequence Submission *(if applicable, all must be included)*  
a. ☐ Paper Copy  
b. ☒ Computer Readable Copy  
c. ☐ Statement Verifying Identical Paper and Computer Readable Copy

**Accompanying Application Parts**

8. ☒ Assignment Papers *(cover sheet & documents)*
9. ☐ 37 CFR 3.73(b) Statement *(when there is an assignee)*
10. ☒ English Translation Document *(if applicable)*
11. ☐ Information Disclosure Statement/PTO-1449      ☐ Copies of IDS Citations
12. ☒ Preliminary Amendment
13. ☒ Acknowledgment postcard
14. ☒ Certificate of Mailing  
☐ First Class      ☒ Express Mail *(Specify Label No.):* EV 027280803 US

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**Accompanying Application Parts (Continued)**

15. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
16. ☐ Small Entity Statement(s) - Specify Number of Statements Submitted: \_\_\_\_\_
17. ☒ Additional Enclosures *(please identify below)*:

Patent Application Bibliographic Data (eAVE) ; Communication  
Certified Translation of Foreign Priority Document  
Copy of German Language Priority Document

**Request That Application Not Be Published Pursuant To 35 U.S.C. 122(b)(2)**

18. ☐ Pursuant to 35 U.S.C. 122(b)(2), Applicant hereby requests that this patent application not be published pursuant to 35 U.S.C. 122(b)(1). Applicant hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing of the application.

**Warning**

***An applicant who makes a request not to publish, but who subsequently files in a foreign country or under a multilateral international agreement specified in 35 U.S.C. 122(b)(2)(B)(i), must notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.***

**UTILITY PATENT APPLICATION TRANSMITTAL**  
**(Small Entity)**

*(Only for new nonprovisional applications under 37 CFR 1.53(b))*

Docket No.  
1974.005

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**Fee Calculation and Transmittal**

**CLAIMS AS FILED**

For	#Filed	#Allowed	#Extra	Rate	Fee
Total Claims	1	- 20 =	0	x \$9.00	\$0.00
Indep. Claims	1	- 3 =	0	x \$40.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
BASIC FEE					\$370.00
OTHER FEE (specify purpose) <u>Assignment Recordation Fee</u>					\$40.00
TOTAL FILING FEE					\$410.00

- ☒ A check in the amount of **\$410.00** to cover the filing fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge and credit Deposit Account No. **08-1935** as described below. A duplicate copy of this sheet is enclosed.
- ☐ Charge the amount of \_\_\_\_\_ as filing fee.
- ☒ Credit any overpayment.
- ☒ Charge any additional filing fees required under 37 C.F.R. 1.16 and 1.17.
- ☐ Charge the issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance, pursuant to 37 C.F.R. 1.311(b).

Dated: February 25, 2002

  
Signature

Candice J. Clement, Esq.  
Registration Number 39,946



23405

PATENT TRADEMARK OFFICE

CC:

## CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Applicants: Weitnauer *et al.*

Title: AVILAMYCIN DERIVATIVES

Attorney Docket No.: 1974.005D

"EXPRESS MAIL" Mailing Label No.: EV027280803US

Date of Deposit: February 25, 2002

Enclosed are:

- \* Utility Patent Application Transmittal Letter - Small Entity (in duplicate)
- \* Communication Regarding United States Formatted Specification, Claims and Abstract
- \* United States Formatted Specification, Claims and Abstract (53 pages)
- \* Preliminary Amendment (1 page)
- \* Informal Drawings (238 pages)
- \* Certified English Language Translation of German Priority Application
- \* Copy of German Language Priority Patent Application
- \* Executed Declaration and Power of Attorney (two documents provide all signatures)
- \* Assignment and Assignment Recordation Cover Sheet
- \* Patent Application Bibliographic Data
- \* CRF Sequence Listing (2 discs)
- \* Check for \$410.00 (\$370.00 basic filing fee and \$40.00 Assignment Recordation Fee)
- \* Postcard

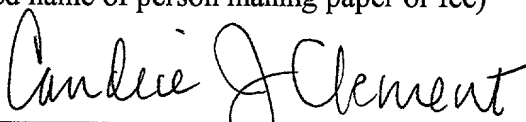
### 37 CFR 1.10 Certification

I hereby certify that this paper and the indicated enclosures are being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and addressed to:

Assistant Commissioner for Patents  
Box Patent Application  
Washington, D.C. 20231

Candice J. Clement

(Typed or printed name of person mailing paper or fee)



(Signature of person mailing paper or fee)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: WEITNAUER *et al.*

Atty Dkt No.: 1974.005

Serial No.: Unknown

Filed: February 25, 2002

Foreign Priority Data: DE 10109166.4 25 February 2001

PCT/EP01/09815 24 August 2001

Title: AVILAMYCIN DERIVATIVES

Assistant Commissioner for Patents

Box Patent Application

Washington, D.C. 20231

COMMUNICATION

Dear Sir:

This communication accompanies a filing under 37 CFR 1.53(b). The above-captioned application claims priority from German Patent Application DE 10109166.4 (25 February 2001) and International Patent Application PCT/EP01/09815 (24 August 2001). As the one year from earliest priority date is February 25, 2002, this application is timely filed.

As the original application (copy enclosed) and the PCT (which has not yet published) were filed in the German language, a certified translation of the original priority document is enclosed. Also enclosed, however, is a copy of the translation which has been formatted in accordance with USPTO Practice: to include paragraph numbering; to include a claim for foreign priority; to include section headings; and to include an Abstract. No new matter has been added. The accompanying Preliminary Amendment removes multiple dependencies and European style claims. A Supplemental Preliminary Amendment is to be filed with a complete set of U.S. formatted claims.

Respectfully submitted,

Date: February 25, 2002



Candice J. Clement, Esq.

Attorney for Applicants

USPTO Registration Number 39,946

HESLIN ROTHENBERG FARLEY & MESITI P.C.

5 Columbia Circle

Albany, New York 12203

Telephone: (518) 452-5600

Facsimile: (518) 452-5579